

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

INCOME TAX REFERENCE NO. 80 OF 1994.

The Commissioner of Income-tax,
City VIII, Bombay..

... Applicant.

V/s.

Shri C.M. Maniar (HUF)

... Respondent.

Shri A. N.Kotangale, Senior Counsel with D.A.
Dubey i/b S. Bhattacharya for the applicant.

None for the respondent.

CORAM : V.C.DAGA AND A.S.AGUIAR, JJ.

DATED : 18.7.2005

P.C. :

. By this reference under section 256 of the
Income-tax Act, 1961, the Income Tax Appellate
Tribunal has referred the following question of law
for the opinion of this Court:

1. Whether, on the facts and in the
circumstances of the case, the
Income-tax Appellate Tribunal was right
in law in upholding the order of the
Appellate Assistant Commissioner of
Income-tax, wherein he has recognised
the partition of the H.U.F."

. In the absence of any challenge to the
finding of fact on the ground that the finding
recorded is perverse or not supported by evidence,
no question of law would arise. Learned Counsel
for the Revenue could not substantiate from the
record that the findings recorded by the Tribunal

are either perverse or based on no evidence. Since finding of fact recorded by the Tribunal is based on evidence, we are of the opinion that the purported question framed by the Tribunal can hardly be said to be a question of law warranting adjudication.

2. Even otherwise, considering negligible tax impact for each year, the case can be said to have been covered by the judgment of this Court the case of C.I.T. vs. Camco Colour Co. (2002) 254 ITR 565. In this view of the matter, for the reasons stated, reference is returned unanswered.

(A.S.AGUIAR, J.)

(V.C.DAGA, J.)